

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

|              |  |             |                    |
|--------------|--|-------------|--------------------|
| Applicant :  | Hugh R. Sharkey et al.                   | Art Unit :  | 3739               |
| Serial No. : | 10/712,007                               | Examiner :  | Michael F. Peffley |
| Filed :      | November 14, 2003                        | Conf. No. : | 7818               |
| Title :      | METHOD FOR TREATING INTERVERTEBRAL DISCS |             |                    |

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

TERMINAL DISCLAIMER UNDER 37 C.F.R. §§ 3.73(b) AND 1.321(b)

Pursuant to 37 C.F.R. § 3.73(b), ORATEC INTERVENTIONS, INC., a corporation, certifies that it is the assignee of the entire right, title, and interest in the above-referenced application by virtue of:

☒ An assignment from the inventors of the above-referenced patent application. The assignment was filed with the parent application (Application Serial No. 09/707,627) on November 6, 2000. The Patent and Trademark Office recorded the assignment at Reel 011283, Frame 0892 on November 6, 2000. The parent application issued as U.S. Patent No. 6,547,810.

To the best of undersigned's knowledge and belief, title is in the assignee identified above. The undersigned (whose title is supplied below) is empowered to act on behalf of the assignee.

Pursuant to 37 C.F.R. § 1.321(b), and to obviate a double patenting rejection, the assignee identified above hereby waives and disclaims the terminal portion of the term of the entire patent to be granted upon the above-referenced application subsequent to the expiration date of U.S. Patent Nos. 5,980,504, 6,126,682, 6,290,715, 6,261,311, and subsequent to any patents granted on pending reference Application Numbers 10/712,063, filed on November 14, 2003 and 10/712,006, filed on November 14, 2003, provided that any patent granted on the above-referenced application shall be enforceable only for and during such period that it is commonly owned with U.S. Patent Nos. 5,980,504, 6,126,682, 6,290,715, and 6,261,311, and any patents granted on pending reference Application Numbers 10/712,063, filed on November 14, 2003 and 10/712,006, filed on November 14, 2003.

The assignee identified above does not disclaim any terminal part of any patent granted on the above-referenced application prior to the expiration date of the full statutory term of U.S.

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Patent Nos. 5,980,504, 6,126,682, 6,290,715, and 6,261,311, and any patents granted on pending reference Application Numbers 10/712,063, filed on November 14, 2003 and 10/712,006, filed on November 14, 2003 in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. § 1.321(a), has all claims cancelled by a reexamination certificate, or is otherwise terminated prior to expiration of its statutory term, except for the separation of legal title as stated above. Assignee herein does not disclaim or otherwise affect any part of U.S. Patent Nos. 5,980,504, 6,126,682, 6,290,715, and 6,261,311, and any patents granted on pending reference Application Numbers 10/712,063, filed on November 14, 2003 and 10/712,006, filed on November 14, 2003.

This disclaimer runs with any patent granted on the above application and is binding upon the grantee, its successors or assigns.

Enclosed is a check for \$130 for the required fee pursuant to 37 C.F.R. § 1.20(d). Please apply any other charges or credits to Deposit Account No. 06-1050.

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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

ORATEC INTERVENTIONS, INC.

Date: 4 May 07

Joel R. Petrow  
JOEL R. PETROW, Esq.

Title: Assistant Secretary

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